



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2013-0440; FRL-9901-84-Region4]

Approval and Promulgation of Implementation Plans; Tennessee;

Bristol; 2010 Lead Base Year Emissions Inventory and Conversion of Conditional

Approvals for Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the Lead 2010 base year emissions inventory State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on April 11, 2013. The emissions inventory was submitted to meet the requirements of the Clean Air Act (CAA or Act) for the Bristol 2008 Lead National Ambient Air Quality Standards (NAAQS) nonattainment area (hereafter also referred to as the “Bristol Area” or “Area”). Additionally, EPA is proposing to convert conditional approvals to full approvals for Tennessee’s 1997 annual fine particulate matter (PM_{2.5}) NAAQS, 2006 24-hour PM_{2.5} NAAQS and 2008 ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other state’s required measures to prevent significant deterioration of its air quality. EPA conditionally approved these portions of Tennessee’s infrastructure submissions for these NAAQS on March 6, 2013, and March 26, 2013. Tennessee has since met the obligations associated with these

conditional approvals, and therefore, EPA is proposing to convert these conditional approvals to full approvals.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2013-0440, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
 2. E-mail: R4-RDS@epa.gov.
 3. Fax: (404) 562-9019.
 4. Mail: "EPA-R04-OAR-2013-0440," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
 5. Hand Delivery or Courier: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
- Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2013-0440. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information

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Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

- I. Background**
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I. Background

a. Emissions Inventory

On November 12, 2008 (73 FR 66964), EPA revised the Lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to $0.15 \mu\text{g}/\text{m}^3$ calculated over a three-month

rolling average. EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On November 22, 2010 (75 FR 71033), EPA promulgated initial air quality designations for the 2008 Lead NAAQS, which became effective on December 31, 2010, based on air quality monitoring data for calendar years 2007 – 2009, where there was sufficient data to support a nonattainment designation. Designations for all remaining areas were completed on November 22, 2011 (76 FR 72097), which became effective on December 31, 2011, based on air quality monitoring data for calendar years 2008 – 2010. Effective December 31, 2010, the Bristol Area was designated as nonattainment for the 2008 Lead NAAQS. This designation triggered a requirement for Tennessee to submit a SIP revision with a plan for how the Bristol Area would attain the 2008 Lead NAAQS as expeditiously as practicable, but no later than December 31, 2015.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP revision under title I, part D of the CAA. This SIP revision must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable, but no later than the date required by the CAA, together with a base year emissions inventory, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures for failure to meet RFP and attainment deadlines. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP revision to EPA.

On August 29, 2012 (77 FR 55232), EPA took final action to determine that the Bristol Area (comprising the portion of Sullivan County bounded by a 1.25 kilometer radius surrounding the Universal Transverse Mercator coordinates 4042923 meters E, 386267 meters N, Zone 17, which surrounds the Exide Technologies Facility, the only source above the revised lead NAAQS within the Area) had attaining data for the 2008 Lead NAAQS. This clean data determination was based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 Lead NAAQS based on the calendar years 2009 - 2011 data. The 2012 monitoring data also demonstrated attainment for the 2008 Lead NAAQS. Pursuant to EPA's Clean Data Policy, once EPA finalizes a clean data determination, all the requirements for the Area to submit an attainment demonstration, RACM, a RFP plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the Area continues to attain the 2008 Lead NAAQS.

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. EPA notes that a final determination of attainment would not suspend the emissions inventory requirement found in CAA section 172(c)(3), which requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions of the lead from all sources in the nonattainment area (i.e., base year emissions inventory).

b. Conditional Approvals

On October 4, 2012, Tennessee submitted a letter requesting conditional approval of certain prevention of significant deterioration (PSD)-related infrastructure elements.¹ Specifically, Tennessee requested conditional approval of elements of the infrastructure SIP related to the requirements in its SIP applicable to its permitting program for adopting the PM_{2.5} PSD increments as promulgated in the rule entitled “Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule,” 75 FR 64864 (October 20, 2010) (hereafter referred to as the “PM_{2.5} PSD Increments-SILs-SMC Rule”). Following promulgation of the PM_{2.5} PSD Increment-SILs-SMC Rule, the PSD increments portion of the Rule became one of the prerequisites for approval of the PSD-related infrastructure requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 ozone NAAQS, and the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. The Rule provides additional regulatory provisions under the PSD program regarding the implementation of the PM_{2.5} NAAQS for New Source Review, including PM_{2.5} increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate “significant deterioration” of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility “will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.”

¹The CAA requires that the SIP provide for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. *See* 42 U.S.C. 7410(a).

With respect to the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 ozone NAAQS, and 110(a)(2)(D)(i)(II) for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS, EPA conditionally approved Tennessee's infrastructure SIP submissions, because at the time of these approvals, the State had not yet adopted the PSD increments provided in the PM_{2.5} PSD Increment-SILs-SMC Rule; however, the State had committed through the October 4, 2012, letter to do so within one year. Based upon this commitment, and consistent with section 110(k)(4) of the CAA, EPA took final action to conditionally approval Tennessee's infrastructure SIP submissions related to the above-described PSD program requirements for the 1997 annual and the 2006 24-hour fine PM_{2.5} NAAQS, and the 2008 ozone NAAQS. *See* 78 FR 14450 (March 6, 2013), and 78 FR 18241 (March 26, 2013), respectively.

Following these actions, and consistent with the terms of the conditional approvals, Tennessee submitted a SIP revision on May 10, 2013, to adopt the PSD PM_{2.5} increments (set forth in Chapter 1200-03-09 of the Tennessee Air Pollution Control Regulations - *Construction and Operating Permits*, Rule Number .01 - Construction Permits) and the then applicable regulatory requirements for implementing the PM_{2.5} NAAQS, as promulgated in the PM_{2.5} PSD Increments-SILs-SMC Rule. This SIP revision was provided to satisfy the October 4, 2012, commitment made by the State. EPA took final action approving the May 10, 2013, submittal on July 25, 2013. *See* 78 FR 44886. As such, Tennessee has satisfied the conditions listed in EPA's previous conditional approvals for these infrastructure submissions. (*See* the above July 25, 2013, *Federal Register* publication for additional information).

II. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008 Lead Standard (PDF) (99pp, 665k) rulemaking, EPA finalized the guidance related to the emissions inventories requirements. The current regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following requirements:

- States must develop and periodically update a comprehensive, accurate, current inventory of actual emissions from all source affecting ambient lead concentrations;
- The SIP inventory must be approved by EPA as a SIP element and is subject to public hearing requirements; and
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year.

For the base-year inventory of actual emissions, EPA recommends using either 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.² For lead SIPs, the CAA requires that all sources of lead emissions in the nonattainment area must be submitted with the base-year inventory. In today's action, EPA is approving the base year emissions

² See EPA document titled "Addendum to the 2008 Lead NAAQS Implementation Questions and Answers" dated August 10, 2012, included in EPA's SIP Toolkit located at <http://www.epa.gov/air/lead/kitmodel.html>.

inventory portion of the SIP revision submitted by Tennessee on April 11, 2013, (hereinafter also referred to as “Tennessee’s submission”) as required by section 172(c)(3).

III. EPA Analysis of the Bristol 2010 Lead Base Year Emissions Inventory

The State of Tennessee followed EPA’s recommendation by using the year of designation (2010) as the base year in the Bristol Area. Actual emissions from all sources of lead were reviewed and compiled, as applicable and available, for the base year emissions inventory requirement. The discussion below provides more details on how the lead emissions were calculated for the Bristol Area.

The only source of lead emissions above 0.5 tons per year within the Bristol Area is Exide Technologies Facility, a lead acid battery manufacturing and recycling facility which processes lead and reclaimed lead into batteries for the auto industry. Pursuant to 40 CFR 51.117(e), the Exide Technologies Facility is the only point source evaluated as part of this emissions inventory requirement. The stationary point source emissions for the Exide Technologies Facility were calculated using data collected through stack tests and the application of AP-42 emissions factors for the source and quality assured by TDEC (see Appendix A of Tennessee’s submission). To obtain estimates of the stationary area and nonroad and onroad mobile emissions, Tennessee used the EPA 2008 National Emissions Inventory (NEI)³ for Sullivan County, as the Bristol Area is located within Sullivan County. Specifically, area source emissions were obtained from the EPA Emissions Inventory System that archives and processes emissions data submitted from the state, local and tribal agencies for use in the NEI. Area source

³ EPA notes that area sources are only required to be submitted for the NEI every three years, according to the Air Emissions Reporting Rule. The most recent public release of the NEI that includes area sources is the 2008 NEI version 2. Because the 2011 NEI is under development, that data was not available for the State to consider in this SIP.

emissions are listed in Appendix D of Tennessee’s submission. No nonroad and onroad sources of emissions of lead were found in the 2008 version 2 of the NEI. A detailed discussion of the emissions inventory development can be found in Tennessee’s submission. Table 1 below shows the level of emissions expressed in pounds per year (lbs/year), in the Bristol Area for the 2010 base year and the emissions source categories.

Table 1. 2010 Lead Emissions for the Bristol Area (lbs/year)

Year	Onroad	Nonroad	Area	Point
2010	0	0	66	1,280

EPA has evaluated Tennessee’s 2010 base year emissions inventory for the Bristol Area, and has made the preliminary determination that this inventory was developed consistent with EPA’s guidance for emissions inventory. As such, pursuant to section 172(c)(3), EPA is proposing to approve Tennessee’s 2010 base year emissions inventory for the Bristol Area.

IV. Conversion of Conditional Approvals for Tennessee’s SIP

As described above, on July 25, 2013, EPA took final action to approve Tennessee’s May 10, 2013, SIP submission to adopt the PSD PM_{2.5} increments (set forth in Chapter 1200-03-09 of the Tennessee Air Pollution Control Regulations - *Construction and Operating Permits*, Rule Number .01 – Construction Permits) and related regulatory requirements for implementing the PM_{2.5} NAAQS, as promulgated in the PM_{2.5} PSD Increments-SILs-SMC Rule. *See* 78 FR 44886. This submission was provided to satisfy the October 4, 2012, commitment made by the State. As such, Tennessee has satisfied the conditions listed in EPA’s previous conditional approvals for the infrastructure submissions (see 78 FR 44886 for additional information). Therefore, EPA is proposing action to convert its conditional approvals with respect to the PSD requirements of

sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone, and the PSD requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS to full approvals. Since Tennessee's May 10, 2013, SIP revision, satisfies the conditional approval requirements for conversion to a full approval, the conditional approval language at 40 CFR 52.2219(c)⁴ and (e), included in EPA's final conditional approvals published on March 6, 2013 and on March 26, 2013, is no longer necessary. Accordingly, EPA is also proposing to remove the conditional approval language relating to Tennessee's PSD program from the 40 CFR 52.2219 to reflect that the program has been fully approved.⁵

V. Proposed Action

EPA is proposing to approve the 2010 base year emissions inventory SIP revision for lead for the Bristol Area as submitted by the State of Tennessee on April 11, 2013. Additionally, EPA is proposing to convert the March 6, 2013, and March 26, 2013, conditional approvals with respect to the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone, and the PSD requirements of section 110(a)(2)(D)(i)(II) for 1997 annual and the 2006 24-hour PM_{2.5} NAAQS to full approvals. EPA is also proposing to remove the conditional approval language from 40 CFR 52.2219 to reflect that the PSD program has been converted to full approval, and that Tennessee has met the State's obligations related to the previous conditional approvals. These actions are being proposed pursuant to section 110 of the

⁴ The conditional approval language at 40 CFR 52.2219(c) incorrectly lists a conditional approval of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 Lead NAAQS. This error stems from a typographical error included in the action finalizing approval of certain sections of the 2008 Lead NAAQS infrastructure SIP. *See* 78 FR 36440. EPA is publishing a correction notice in this Federal Register correcting this inadvertent error, such that the language at 40 CFR 52.2219(c) correctly describes the conditional approval of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour Ozone NAAQS.

⁵ EPA notes that through this action, the Agency is not proposing any revisions to the conditionally-approved provisions described at 40 CFR 52.2219(a), (b) or (d).

CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposal does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 25, 2013.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

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